

48A C.J.S. Judges § 254

Corpus Juris Secundum | August 2023 Update

Judges

Joseph Bassano, J.D.; Khara Singer-Mack, J.D.; Thomas Muskus, J.D.; Karl Oakes, J.D. and Jeffrey J. Shampo, J.D.

IX. Disqualification to Act

C. Grounds for Disqualification

1. In General

b. Bias or Prejudice

(2) Nature or Character

(b) Origin of Bias or Prejudice and Against Whom Directed

§ 254. Bias based on interest

[Topic Summary](#) | [References](#) | [Correlation Table](#)

West's Key Number Digest

West's Key Number Digest, [Judges](#)  49(1)

Where bias or prejudice is a ground of disqualification, any interest, the probable and natural tendency of which is to create a bias in the mind of the judge for or against a party to the cause, is sufficient to disqualify the judge.

A judge who has a personal interest in a case cannot act fairly in that case.¹ Where bias or prejudice is a ground of disqualification, any interest, the probable and natural tendency of which is to create a bias in the mind of the judge for or against a party to the cause, is sufficient to disqualify the judge.² The interest which disqualifies a judge on the ground of bias or prejudice need not be a pecuniary one.³ On the other hand, where a case involves remote, contingent, indirect, or speculative interests, the disqualification of a judge is not required.⁴ Where statutes specifying the grounds of disqualification are considered exhaustive, prejudice or bias not based on interest or other statutory ground is not a cause for disqualification.⁵

CUMULATIVE SUPPLEMENT

Cases:

Standard for determining whether Fourteenth Amendment's due process clause required recusal of a state trial judge who was target of a federal bribery probe in which prosecutor was playing a role was whether considering all circumstances alleged, risk of bias was too high to be constitutionally tolerable; evidence of actual bias in defendant's case was not required. [U.S.C.A. Const.Amend. 14. Rippo v. Baker](#), 137 S. Ct. 905 (2017).

[END OF SUPPLEMENT]

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Footnotes

- 1 Ill.—[Business and Professional People for Public Interest v. Barnich](#), 244 Ill. App. 3d 291, 185 Ill. Dec. 207, 614 N.E.2d 341 (1st Dist. 1993).
- 2 U.S.—[Withrow v. Larkin](#), 421 U.S. 35, 95 S. Ct. 1456, 43 L. Ed. 2d 712 (1975).

 Wash.—[Chicago, M., St. P. & P. R. Co. v. Washington State Human Rights Commission](#), 87 Wash. 2d 802, 557 P.2d 307 (1976).
- 3 U.S.—[Caperton v. A.T. Massey Coal Co., Inc.](#), 556 U.S. 868, 129 S. Ct. 2252, 173 L. Ed. 2d 1208 (2009).

 Interest as ground of disqualification, see §§ 275 to 288.
- 4 Utah—[Kunej v. Labor Com'n](#), 2013 UT App 172, 306 P.3d 855, 295 Ed. Law Rep. 830 (Utah Ct. App. 2013).
- 5 Ga.—[Elder v. Camp](#), 193 Ga. 320, 18 S.E.2d 622 (1942).

 N.Y.—[Katz v. Denzer](#), 70 A.D.2d 548, 416 N.Y.S.2d 607 (1st Dep't 1979).